

AMENDED IN ASSEMBLY JULY 1, 2010

AMENDED IN SENATE APRIL 21, 2010

**SENATE BILL**

**No. 1055**

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**Introduced by Senator Ashburn**

February 16, 2010

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An act to add Section 11546.3 to the Government Code, relating to the State Chief Information Officer.

LEGISLATIVE COUNSEL'S DIGEST

SB 1055, as amended, Ashburn. State Chief Information Officer: fingerprints: criminal history.

Existing law authorizes certain state agencies to require fingerprint images and associated information from employees and prospective employees, and to furnish those images and that information to the Department of Justice for the purpose of obtaining information relating to criminal convictions.

This bill would, in addition, ~~authorize~~ *require* the State Chief Information Officer to require fingerprint images and associated information from an employee, prospective employee, contractor, subcontractor, volunteer, or vendor whose duties include, or would include, access to confidential or sensitive information, *as specified*. The bill would ~~allow~~ *require* the State Chief Information Officer to furnish those images and that information to the Department of Justice for the purpose of obtaining information relating to *certain acts, including* criminal convictions or the existence and content of a record of arrest, as specified. The bill would require the State Chief Information Officer to request subsequent arrest notifications, as specified, and would authorize the Department of Justice to assess a fee sufficient to cover the processing costs imposed by these provisions. The bill also

would require that an individual who is rejected as a result of information contained in the criminal offender record receive a copy of the response record from the State Chief Information Officer and that the State Chief Information Officer develop a written appeal process for an individual who is rejected for employment because of his or her record. *The bill would prohibit an individual from being ineligible for employment pursuant to these provisions until the appeal process is in place.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11546.3 is added to the Government  
2 Code, to read:  
3 11546.3. (a) The State Chief Information Officer ~~may~~ *shall*  
4 require fingerprint images and associated information from an  
5 employee, prospective employee, contractor, subcontractor,  
6 volunteer, or vendor whose duties include, or would include,  
7 *working on data center, telecommunication, or network operations,*  
8 *engineering, or security with access to confidential or sensitive*  
9 *information and data on the network or computing infrastructure.*  
10 (b) The fingerprint images and associated information described  
11 in subdivision (a) ~~may~~ *shall* be furnished to the Department of  
12 Justice for the purpose of obtaining information as to the existence  
13 and nature ~~of a~~ *of any of the following:*  
14 (1) A record of state or federal convictions and the existence  
15 and nature of state or federal arrests for which the person is free  
16 on bail or on his or her own recognizance pending trial or appeal.  
17 (2) *Being convicted of, or pleading nolo contendere to, a crime,*  
18 *or having committed an act involving dishonesty, fraud, or deceit,*  
19 *if the crime or act is substantially related to the qualifications,*  
20 *functions, or duties of a person employed by the state in accordance*  
21 *with this provision.*  
22 (3) *Any conviction or arrest, for which the person is free on bail*  
23 *or on his or her own recognizance pending trial or appeal, with*  
24 *a reasonable nexus to the information or data to which the*  
25 *employee shall have access.* ~~Requests~~  
26 (c) *Requests* for federal criminal offender record information  
27 received by the Department of Justice pursuant to this section shall

1 be forwarded to the Federal Bureau of Investigation by the  
2 Department of Justice.

3 ~~(e)~~

4 (d) The Department of Justice shall respond to the State Chief  
5 Information Officer with information as provided under subdivision  
6 (p) of Section 11105 of the Penal Code.

7 ~~(d)~~

8 (e) The State Chief Information Officer shall request subsequent  
9 arrest notifications from the Department of Justice as provided  
10 under Section 11105.2 of the Penal Code.

11 ~~(e)~~

12 (f) The Department of Justice may assess a fee sufficient to  
13 cover the processing costs required under this section, as authorized  
14 pursuant to subdivision (e) of Section 11105 of the Penal Code.

15 ~~(f)~~

16 (g) If an individual described in subdivision (a) is rejected as a  
17 result of information contained in the Department of Justice or  
18 Federal Bureau of Investigation criminal offender record  
19 information response, the individual shall receive a copy of the  
20 response record from the State Chief Information Officer.

21 ~~(g)~~

22 (h) The State Chief Information Officer shall develop a written  
23 appeal process for an individual described in subdivision (a) who  
24 is determined ineligible for employment because of his or her  
25 Department of Justice or Federal Bureau of Investigation criminal  
26 offender record. *Individuals shall not be found to be ineligible for*  
27 *employment pursuant to this section until the appeal process is in*  
28 *place.*

29 (i) *When considering the background information received*  
30 *pursuant to this section, the State Chief Information Officer shall*  
31 *take under consideration any evidence of rehabilitation, including*  
32 *participation in treatment programs, as well as the age and*  
33 *specifics of the offense.*